

SPECIAL SESSION

H.16

An act relating to vital records

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 2017 Acts and Resolves No. 46, Sec. 63 is amended to read:

Sec. 63. EFFECTIVE DATES

(a) This section; in Sec. 3, 18 V.S.A. § 5000(e)(8) and (f) (rulemaking authority); and in Sec. 39, 18 V.S.A. § 5131(a)(2) (marriage license application form) shall take effect on passage.

(b) All other sections of this act shall take effect on July 1, ~~2018~~ 2019.

Sec. 2. REPEAL

The following sections of 2017 Acts and Resolves No. 46 shall be repealed:

- (1) Sec. 9, amending 18 V.S.A. § 5007;
- (2) Sec. 17, adding 18 V.S.A. § 5016;
- (3) Sec. 22, amending 18 V.S.A. § 5073;
- (4) Sec. 24, amending 18 V.S.A. § 5075;
- (5) Sec. 29, amending 15A V.S.A. § 3-802;
- (6) Sec. 30, amending 18 V.S.A. § 5078; and
- (7) Sec. 52, amending 18 V.S.A. § 5202a.

Sec. 3. 18 V.S.A. § 5000(c)(2) is added to read:

- (2) On and after July 1, 2019:

(A) upon registration of a birth or death in the Statewide Registration System, the System shall automatically notify the town clerk of the town of occurrence and the town clerk of residence of the registrant;

(B) upon the correction or amendment of a birth or death certificate registered in the System, or upon issuance of a new birth certificate to replace a birth certificate registered in the System, the System shall automatically notify the town clerk of the town of occurrence and the town clerk of residence of the registrant.

Sec. 4. 18 V.S.A. § 5007 is amended to read:

§ 5007. PRESERVATION OF ~~DATA~~ RECORDS

A town clerk shall receive, number, and file for record certificates of ~~births,~~ marriages, ~~civil unions,~~ and deaths, and shall preserve such certificates ~~together with the~~ and burial-transit ~~and removal~~ permits returned to the clerk, ~~in a fireproof vault or safe, as provided by 24 V.S.A. § 1178.~~ A town clerk shall permanently preserve at the office of the clerk birth and death certificates registered prior to July 1, 2019 and marriage and civil union certificates.

Sec. 5. 18 V.S.A. § 5016 is added to read:

§ 5016. BIRTH AND DEATH CERTIFICATES; COPIES; INSPECTION

(a) Access and issuance generally.

(1) Except as provided in subdivisions (2) and (3) of this subsection:

(A) only the State Registrar and issuing agents may issue certified copies of birth and death certificates registered before July 1, 2019, and such certificates shall only be issued from the Statewide Registration System; and

(B) only the State Registrar and issuing agents may issue certified or noncertified copies of birth and death certificates registered on or after July 1, 2019, and such certificates shall only be issued from the Statewide Registration System.

(2) Copies of birth and death certificates registered prior to January 1, 1909 shall not be issued from the Statewide Registration System. Any town clerk may issue a certified copy of a pre-1909 birth or death certificate, provided he or she fulfills the requirements of subsection (b) of this section and such additional requirements as the State Registrar may prescribe as necessary to track antifraud paper used to produce such copies.

(3) A certified or noncertified birth or death certificate shall only be issued as authorized and prescribed in this section, except that in either of the following circumstances, a public agency may issue a noncertified copy even if it does not follow the requirements of this section governing noncertified copies:

(A) if the public agency is an agency other than the Office of Vital Records, the Vermont State Archives and Records Administration, or the

office of a town or county, and the public agency has custody of a birth or death certificate acquired in the course of its business; or

(B) if the birth or death certificate was filed in the records of a town or county office, such as land records, for a reason unrelated to its official role under law as a repository of registered birth or death certificates.

(4) The word “illegitimate” shall be redacted from any certified or noncertified copy of a birth certificate.

(5) If necessary to prevent fraud, the State Registrar may limit the issuance of a certified or noncertified copy of a certificate of live birth for a foreign born child in the same manner as copies of birth certificates are limited under this section.

(b) Certified copies.

(1) The State Registrar and issuing agents may issue certified copies of birth and death certificates only upon receipt of a complete application accompanied by a form of identification prescribed in rules adopted by the State Registrar. The State Registrar and issuing agents shall record in a database maintained by the State Registrar any application received.

(2) Only the following persons shall be eligible for a certified copy of a birth or death certificate:

(A) the registrant or his or her spouse, child, parent, sibling, grandparent, or guardian; a person petitioning to open a decedent's estate; a court-appointed executor or administrator; or the legal representative of any of these;

(B) a specific person pursuant to a court order finding that a noncertified copy is not sufficient for the applicant's legal purpose and that a certified copy of the birth or death certificate is needed for the determination or protection of a person's right; or

(C) in the case of a death certificate only, additionally to:

(i) the individual with authority for final disposition as provided in section 5227 of this title or a funeral home or crematorium acting on the individual's behalf;

(ii) the Social Security Administration;

(iii) the U.S. Department of Veterans Affairs; or

(iv) the deceased's insurance carrier, if such carrier provides benefits to the decedent's survivors or beneficiaries.

(3) Antifraud paper. Certified copies of birth and death certificates shall be issued only on unique paper with antifraud features approved by the State Registrar.

(4) Legal effect. A certified copy of a birth or death certificate shall be prima facie evidence of the facts stated therein.

(c) Noncertified copies.

(1) Form. A noncertified copy of a birth or death certificate issued from the Statewide Registration System shall indicate the term “Noncertified” on its face and shall not be issued on antifraud paper.

(2) Legal effect. A noncertified copy of a birth or death certificate shall not serve as prima facie evidence of the facts stated therein, except that it may be recorded in the land records of a municipality to establish the date of birth or death of a person with an ownership interest in property.

(d) Inspection. In addition to the provisions of the Public Records Act, the State Registrar may prescribe procedures governing the inspection of birth and death certificates if necessary to protect the integrity of the certificates or to prevent fraud.

Sec. 6. 18 V.S.A. § 5073 is amended to read:

§ 5073. ~~AMENDMENT OF MINOR ERRORS ON BIRTH CERTIFICATE~~
CORRECTIONS, COMPLETIONS

(a)(1) ~~Within~~ Except as otherwise provided in subdivision (2) of this subsection, ~~within~~ six months after the date of birth, ~~amendment of obvious errors, transpositions of letters in words of common knowledge, or omissions, may be made by the town clerk either upon his or her own observation or the~~ State Registrar may correct or complete a birth certificate in the Statewide Registration System upon ~~request~~ application of a parent, the hospital, in which

the birth occurred, or the certifying attendant, or the Supervisor of Vital
Records Registration.

(2) At any time after the date of birth, the State Registrar may complete
a birth certificate to add the name of a parent only upon request of the
registrant or his or her parent or guardian and upon the receipt of:

(A) a properly executed voluntary acknowledgment of parentage; or

(B) a decree of a court or administrative agency of competent
jurisdiction adjudicating parentage.

(3) Within six months after the date of birth, the State Registrar may
complete or change the name of a child upon joint application of the parents or
upon application of the parent if only one parent is listed on the birth
certificate. A court order shall not be required, except for completions or
changes of name more than six months after the date of birth.

(b) If the State Registrar determines that a correction or completion
requested under this section is unwarranted, he or she may deny an application,
in which case the applicant may petition the Probate Division of the Superior
Court. The court shall review the petition and relevant evidence de novo to
determine if the correction or completion is warranted. The court shall
transmit a decree ordering a correction or completion to the State Registrar,
who shall correct or complete the certificate in accordance with the decree.

~~(c) The amended~~ A corrected or completed certificate shall be free of any evidence of such correction ~~except that the clerk shall make a notation as to the change and shall not be marked "Amended."~~ However, the State Registrar shall record and maintain in the Statewide Registration System the source of the information, ~~together with his or her name~~ the nature and content of the change, the identity of the person making the change, and the date the change was made, ~~on the margin of the certificate.~~ This notation shall not be included ~~on any certified copy of the certificate issued except as specified in subsection (b) of this section.~~ The certificate shall not be marked "Amended."

~~(b) The town clerk shall send a certified copy of any certificate amended under subsection (a) of this section to the Commissioner and also to the clerk of any town to whom a copy of the original record was sent under the provisions of section 5009 of this title, and shall enclose with that copy, but not endorsed thereon, a notation identifying the copy to be replaced. The copy shall show the notations specified in subsection (a) of this section. The Commissioner shall file this return or copy by attaching the same to the original return or copy.~~

(d) If the State Registrar corrects or completes a certificate that was registered prior to July 1, 2019, he or she shall notify the town clerk or clerks with custody of the certificate, who shall replace and dispose of the

uncorrected certificate and update indexes as directed by the State Registrar.

Corrected or completed originals shall not be marked "Amended."

Sec. 7. 18 V.S.A. § 5075 is amended to read:

§ 5075. ISSUANCE OF ~~NEW OR CORRECTED~~ AMENDED OR

DELAYED BIRTH CERTIFICATE BY PROBATE DIVISION OF
THE SUPERIOR COURT APPLICATION

(a) ~~After~~ Except as otherwise provided in subdivision 5073(a)(2) of this
title, after six months from the date of birth, any alteration of the birth
certificate of a person born in this state may be amended only by the decree of
the Probate Division of the Superior Court of the district in which such birth
occurred State shall be deemed an amendment. A petition for such
amendment may be brought by the person, the person's Upon application by
the registrant, his or her parent or guardian, the hospital in which the birth
occurred, or the certifying attendant, or custodian setting forth the reason for
such petition and the correction or amendment desired and the reason for it, the
State Registrar may amend the birth certificate if the application and relevant
evidence, if any, show that the amendment is warranted.

(b) A person born in this State for whom no certificate of birth was filed
during the first year following birth, or his or her parent or guardian, may
~~petition the Probate Division of the Superior Court of the district in which such~~

~~person was born~~ apply to the State Registrar to determine the facts with respect to this the birth and to order the issuance of issue a delayed certificate of birth.

~~(b) Birth certificates issued under this section for minor errors as defined in subsection 5073(a) of this title shall be corrected without payment of a fee.~~

(c) If the State Registrar denies an application under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the amendment or issuance of a delayed certificate is warranted. The court shall transmit a decree ordering an amendment or issuance of a delayed certificate to the State Registrar, who shall amend or issue the certificate in accordance with the decree.

(d) The State Registrar shall make any amendment and register any delayed certificate in the Statewide Registration System. Any amended birth certificate issued from the System shall indicate the word "Amended" and the date of amendment, and any delayed certificate issued from the System shall indicate the word "Delayed" and the date of registration. The State Registrar shall record and maintain in the System the identity of the person requesting the amendment or delayed certificate, the nature and content of the change made in the System, the person who made the amendment or registered the delayed certificate in the System, and the date of the amendment or registration.

(e) If the State Registrar amends a certificate that was registered prior to July 1, 2019, he or she shall notify the town clerk or clerks with custody of the certificate, who shall replace and dispose of the unamended certificate and update indexes as directed by the State Registrar.

Sec. 8. 18 V.S.A. § 5078 is amended to read:

§ 5078. ADOPTION; NEW AND AMENDED BIRTH CERTIFICATE

(a) ~~The Supervisor of Vital Records Registration shall establish a new birth certificate for a person born in the State when the Supervisor~~ When the State Registrar receives a record report of adoption, a report of an amended adoption, or a report that an adoption has been set aside as provided in ~~15 V.S.A. § 449~~ 15A V.S.A. § 3-801, or a record of adoption prepared and filed in accordance with the laws of another state or foreign country, he or she shall proceed as prescribed in 15A V.S.A. § 3-802.

(b) ~~The new birth certificate shall be on a form prescribed by the Commissioner of Health. The new birth certificate shall include:~~

- ~~(1) the actual place and date of birth;~~
- ~~(2) the adoptive parents as though they were natural parents;~~
- ~~(3) If prior to July 1, 2019 a new birth certificate was issued following an adoption that contains a notation that it was issued by authority of this chapter, contains the filing dates of the original and the new birth certificate, or otherwise contains information that facially distinguishes it from an original,~~

the adoptive parent or the adoptee if 14 years of age or older may apply to the State Registrar to issue a replacement birth certificate that does not contain distinguishing information. The State Registrar shall issue the replacement and notify any town clerk with custody of the version that contains distinguishing information, who shall substitute the latter with the replacement birth certificate. The town clerk shall send the version that contains distinguishing information to the State Registrar, who shall keep it confidential.

~~(c) The new birth certificate shall not contain a statement whether the adopted person was illegitimate. [Repealed.]~~

~~(d) The new certificate, and sufficient information to identify the original certificate, shall be transmitted to the clerk of the town of birth to be filed according to the procedures in 15 V.S.A. § 451. [Repealed.]~~

~~(e) The Supervisor of Vital Records Registration shall not establish a new birth certificate if the supervisor receives, accompanying the record of adoption, a written request that a new certificate not be established:~~

~~(1) from the adopted person if 18 years or older; or~~

~~(2) from the adoptive parent or parents if the adopted person is under 18 years of age. [Repealed.]~~

~~(f) When the Supervisor of Vital Records Registration receives a record of adoption for a person born in another state, the Supervisor shall forward a certified copy of the record of adoption to the state registrar in the state of~~

~~birth, with a request that a new birth certificate be established under the laws of that state. [Repealed.]~~

Sec. 9. 18 V.S.A. § 5202a is amended to read:

§ 5202a. CORRECTION, COMPLETION, OR AMENDMENT OF DEATH
CERTIFICATE

(a) Corrections, completions. Within six months after the date of death, the ~~town clerk~~ State Registrar may correct or complete a death certificate upon application by the certifying ~~physician~~ licensed health care professional, medical examiner, hospital, nursing home, or funeral director, if the application and relevant evidence, if any, show that the correction or completion is warranted. ~~The town clerk may correct or complete the certificate accordingly and shall certify thereon that such correction or completion was made pursuant to this section, with the date thereof. In his or her discretion, the town clerk may refuse an application for correction or completion, in which case, the applicant may petition the Probate Division of the Superior Court for such correction or completion.~~

(b)(1) Amendments. After six months from the date of death, any alteration of a death certificate may only be corrected or amended pursuant to decree of the Probate Division of the Superior Court in which district the original certificate is filed shall be deemed an amendment. Upon application by a person specified in subsection (a) of this section, the State Registrar may

amend the death certificate if the application and relevant evidence, if any,
show that the amendment is warranted.

~~(2) The Probate Division of the Superior Court to which such application is made shall set a time for hearing thereon and, if such court deems necessary, cause notice of the time and place thereof to be given by posting the same in the Probate Division of the Superior Court office and, after hearing, shall make such findings, with respect to the correction of such death certificate as are supported by the evidence. The court shall thereupon issue a decree setting forth the facts as found and transmit a certified copy of such decree to the Supervisor of Vital Records Registration. The Supervisor of Vital Records Registration~~

(c) Appeal. If the State Registrar denies an application for a correction, completion, or amendment under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the requested action is warranted. The court shall transmit a decree ordering a correction, completion, or amendment to the State Registrar, who shall take action in accordance with the decree.

(d) Documentation of changes. The State Registrar shall make corrections, completions, and amendments in the Statewide Registration System. A corrected or completed certificate issued from the System shall be free of any

evidence of the alteration and shall not be marked "Amended." Any amended death certificate issued from the System shall indicate the word "Amended" and the date of amendment. The State Registrar shall enter into and maintain in the System the identity of the person requesting the correction, completion, or amendment, the nature and content of the change, the identity of the person making the change in the System, and the date the change was made.

(e) Original certificates. If the State Registrar corrects, completes, or amends a certificate that was registered prior to July 1, 2019, he or she shall transmit the same to the appropriate town clerk to amend notify the town clerk or clerks with custody of the original or issue a new certificate, who shall replace and dispose of the original and update indexes, as directed by the State Registrar. The words "Court Amended" shall be typed, written, or stamped at the top of the new or amended certificates with the date of the decree and the name of the issuing court.

(e)(f) Provided, however, that only the medical examiner or the certifying physician may apply to Cause of death. The State Registrar shall only correct or, complete the certificate as to, or amend the medical certification of the cause of death upon application by the medical examiner or certifying licensed health care professional.

Sec. 10. 15A V.S.A. § 3-802 is amended to read:

§ 3-802. ISSUANCE OF NEW, AMENDED BIRTH CERTIFICATE

(a) Except as otherwise provided in subsection (d) of this section, upon receipt of a report of adoption prepared pursuant to ~~section 3-801~~ subsection 3-801(a) of this title, a report of adoption prepared in accordance with the law of another state or country, a certified copy of a decree of adoption together with information necessary to identify the adoptee's original birth certificate and to issue a new certificate, or a report of an amended adoption prepared pursuant to subsection 3-801(b) of this title, the ~~supervisor of vital records~~ State Registrar shall either:

(1) ~~issue a new birth certificate~~ for an adoptee born in this ~~state~~ State, update the Statewide Registration System in accordance with the decree, and furnish a certified copy of ~~the~~ a new birth certificate to the adoptive parent and to an adoptee who ~~has attained~~ is 14 years of age or older;

(2) ~~forward a certified copy of a report of adoption~~ for an adoptee born in another state, forward a certified copy of the report of adoption to the ~~supervisor of vital records~~ appropriate office of the state of birth;

(3) ~~issue a certificate of foreign birth~~ for an adoptee adopted in this ~~state~~ and State who was born outside the United States and was not a citizen of the United States at the time of birth, create and register in the Statewide Registration System a "certificate of live birth for a foreign born child" upon

request and in the form specified in 18 V.S.A. § 5078a, and furnish a certified copy of the certificate to the adoptive parent and to an adoptee who ~~has attained~~ is 14 years of age or older;

(4) ~~notify an adoptive parent of the procedure for obtaining a revised birth certificate through the U.S. Department of State~~ for an adoptee born outside the United States who was a citizen of the United States at the time of birth, notify the adoptive parent of the procedure for obtaining a revised birth certificate through the U.S. Department of State; or

(5) in the case of an amended decree of adoption, ~~issue an amended birth certificate according to~~ either update the Statewide Registration System in accordance with the decree and follow the procedure in subdivision (a)(1) or (3) of this section, or follow the procedure in subdivision (2) or (4) of this section.

(b) Unless otherwise specified by the court, a new birth certificate or certificate of live birth for a foreign born child issued pursuant to subdivision (a)(1) or (3) or an amended certificate issued pursuant to subdivision (a)(5) of this section shall:

- (1) be signed by the ~~supervisor of vital records~~ State Registrar;
- (2) include the date, time, and place of birth of the adoptee;
- (3) substitute the name of the adoptive parent for the name of the person listed as the adoptee's parent on the original birth certificate;

(4) ~~include the filing date of the original birth certificate and the filing date of the new birth certificate;~~ [Repealed.]

(5) contain any other information prescribed by the ~~supervisor of vital records~~ State Registrar.

(c) ~~The supervisor of vital records, and any other custodian of such records,~~ In the case of birth certificates registered prior to July 1, 2019 that are to be replaced or amended pursuant to subdivision (a)(1) or (5) of this section, the State Registrar shall notify the town clerk or clerks with custody of the certificate, who shall substitute the new or amended birth certificate for the original birth certificate. The original certificate and all copies of the certificate in the files shall be sealed and shall not be subject to inspection or copying until 99 years after the adoptee's date of birth, except as provided by this title.

(d) If the court, the adoptive parent, or an adoptee who ~~has attained~~ is 14 years of age or older requests that a new or amended birth certificate not be issued, the ~~supervisor of vital records may~~ State Registrar shall not issue a new or amended certificate for an adoptee pursuant to subsection (a) of this section; ~~but~~. Nonetheless, for an adoptee born in another state, the State Registrar shall forward a certified copy of the report of adoption or of an amended decree of adoption ~~for an adoptee who was born in another state~~ to the appropriate office in the adoptee's state of birth.

(e) Upon receipt of a report that an adoption has been ~~vacated~~ set aside, the ~~supervisor of vital records~~ State Registrar shall:

(1) ~~restore the original birth certificate~~ for a person born in this state ~~to its place in the files,~~ State for whom a new birth certificate was issued, update the Statewide Registration System to reflect the original birth certificate data and, in the case of an original birth certificate registered prior to July 1, 2019, notify the town clerk or clerks with custody of the certificate, who shall seal any new or amended birth certificate issued pursuant to subsection (a) of this section, restore the original, update indexes as directed by the State Registrar, and not allow inspection or copying of a the sealed certificate except upon court order or as otherwise provided in this title;

(2) ~~forward the report with respect to~~ for a person born in another state, ~~forward the report~~ to the appropriate office in the state of birth; ~~or~~

(3) for an adoptee born outside the United States who was not a citizen of the United States at the time of birth for whom a certificate of live birth for a foreign born child was issued, update the Statewide Registration System to reflect that the adoption was set aside; or

(4) ~~notify the person who is granted legal custody of a former adoptee after an adoption is vacated of the procedure for obtaining an original birth certificate through the U.S. Department of State for a former adoptee born outside the United States who was a citizen of the United States at the time of~~

birth, notify the person who is granted legal custody of a former adoptee after an adoption is set aside of the procedure for obtaining an original birth certificate through the U.S. Department of State.

(f) Upon request by a person who was listed as a parent on an adoptee's original birth certificate and who furnishes appropriate proof of the person's identity, the ~~supervisor of vital records~~ State Registrar shall give the person a noncertified copy of the original birth certificate.

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 1 (Act 46 effective dates) and 2 (repeal of Act 46 sections) shall take effect on passage.

(b) Sec. 3 (18 V.S.A. § 5000(c)(2)) shall take effect on July 1, 2019 and shall supersede amendments to 18 V.S.A. § 5000(c)(2) made by 2017 Acts and Resolves No. 46, Sec. 3.

(c) All other sections shall take effect on July 1, 2019.